



California Fair Political Practices Commission

July 14, 1989

Shirley Wechsler
11783 Laurel Crest Drive
Studio City, CA 91604

Re: Your Request For Advice
Our File No. I-89-351

Dear Ms. Wechsler:

You have requested advice under the campaign provisions of the Political Reform Act.^{1/} We are treating your letter as a request for informal assistance because you have asked a general question of interpretation and have not identified the candidate or committee on whose behalf you have requested assistance.^{2/}

QUESTION

What is the proper method of reporting the forgiveness of a loan received by a candidate from another candidate, a controlled committee or a major donor?

CONCLUSION

A forgiveness of a loan is a contribution. As of January 1, 1989, candidates, including their controlled committees, are prohibited from making contributions out of campaign funds to other candidates. Therefore, a candidate who made a loan from campaign funds to another candidate prior to January 1, 1989, may not forgive the loan. A major donor may make contributions of no

1/Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

2/Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice.
(Section 83114; Regulation 18329(c)(3).)

Shirley Wechsler
Page Two

more than \$1,000 per fiscal year to a candidate. Therefore, a major donor may forgive up to \$1,000 per fiscal year of an outstanding loan made to a candidate. Recipient committees (other than recipient committees controlled by a candidate) may make contributions to a candidate of up to \$2,500 in the case of a "political committee," and up to \$5,000 in the case of a "broad based political committee" in a fiscal year. Therefore, such committees may forgive loans of up to the applicable amount each fiscal year.

A loan forgiveness is reported on the same campaign disclosure statement schedule as loan payments are reported. (Schedule B, Part 2 of the Form 490 for candidates.) In addition, a loan forgiveness must be disclosed as a monetary contribution. (Schedule A of Form 490.)

ANALYSIS

In a telephone conversation concerning this question, you advised me that you were inquiring about the forgiveness of loans which were made prior to January 1, 1989, the date the contribution limitations of Proposition 73 went into effect. In your letter, you indicated that "no possibility of repayment exists" for the repayment of the loans.

Proposition 73, passed by the voters at the 1988 state primary election, imposes limitations on the amounts of contributions candidates and committees that make contributions to candidates may make and receive. (Sections 85301, 85302 and 85303.) In addition, candidates and their controlled committees are prohibited from transferring campaign funds to any other candidate or controlled committee. (Section 85304.)

"Contribution" is defined, in part, as:

.... a payment, a forgiveness of a loan, a payment of a loan by a third party....

(Section 82015.)

As you point out in your letter, the loans in question were legal when they were made. That is, they were made prior to January 1, 1989, the effective date of Proposition 73. The loans could have been forgiven prior to the effective date of Proposition 73. However, once the contribution limitations of Proposition 73 went into effect, a loan forgiveness can only be made within the contribution limitations of Proposition 73, as explained above in the "Conclusion."

Shirley Wechsler
Page Three

A candidate or committee which has received a loan that was not either repaid or forgiven prior to January 1, 1989, may solicit contributions for the purpose of repaying the loan. Such contributions would, of course, be subject to the contribution limitations and other requirements of Proposition 73.

If you have any questions about this letter, please contact me.

Sincerely,

Kathryn E. Donovan
General Counsel

A handwritten signature in cursive script, appearing to read "Jeanne Pritchard".

By: Jeanne Pritchard
Division Chief
Technical Assistance and
Analysis Division

\$ Wechsler

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May 26, 1989

Jeanne Pritchard
FPPC
POB 1467
Sacramento, Ca. 95807

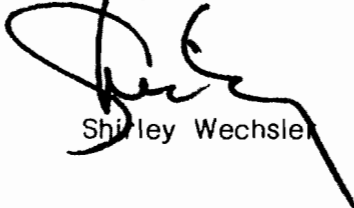
Dear Jeanne:

How do we report the forgiveness of a loan (made when such loans were legal) between candidate controlled committees or major donors and recipient committees?

It seems absurd to continue carrying these loans - when no possibility of repayment exists - because there is no provision made under current legislation!

The infinite guidance and wisdom of the Commission would be appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shirley Wechsler', with a long, sweeping horizontal line extending to the right.

Shirley Wechsler

S Wechsler

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May 26, 1989

Jeanne Pritchard
FPPC
POB 1467
Sacramento, Ca. 95807

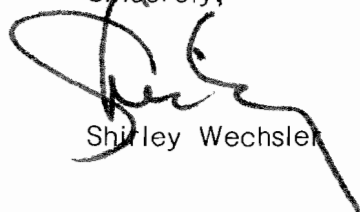
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Sincerely,



Shirley Wechsler



California Fair Political Practices Commission

June 8, 1989

Shirley Wechsler
11783 Laurel Crest Drive
Studio City, CA 91604

Re: Letter No. 89-351

Dear Ms. Wechsler:

Your letter requesting advice under the Political Reform Act was received on June 6, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Jeanne Pritchard *by jek*
Jeanne Pritchard
Chief Technical Assistance
and Analysis Division

JP:plh